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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,397	04/13/2007	John Hatrick-Smith	550639.00007	2415

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EXAMINER

WENDELL, MARK R

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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06/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,397	Applicant(s) HATRICK-SMITH, JOHN	
	Examiner MARK R. WENDELL	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because stray lines and fuzzy edges exist. Detailed structure cannot easily be discerned from many of the drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

Claims 1 and 2 are objected to because of the following informalities: The phrase "down a panel" in line 2 should be removed. Appropriate correction is required.

All claims need to be re-worded in a manner consistent with the English language and repeat language and limitations should be deleted from the claim language.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "and/or" is not allowed within the claim language as it renders the claim indefinite.

The examiner also notes that the phrase "may be supported" is not a positive limitation. It appears as if the applicant would like the supporting limitation to be positive and therefore the claims have been examined as such; however the claim language should be altered to positively claim the limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Lippe.

Regarding the claims, Lippe illustrates in Figures 25-27 a shower wall liner panel including panel sections (3) on either side of a fold, and a non-planar formation (5) integrally formed in the panel at least on one side of the fold from which after installation

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of the liner panel one or more of a shelf or soap dish (23) may be supported within a shower.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lippe (US 6698037) in view of Campe (US 5070549). Regarding claims 3-5 and 8, it is described above what is disclosed by Lippe. Lippe even illustrates in Figure 18 the shower assembly having 3 panels with 2 fold points. However, the reference does not teach a shelf or basket, soap dish, rail, or step formed within the non-planar formations in the fold corner section. Campe illustrates in Figure 3 an integral, plastic shelf and soap dish combination formed into a corner of a shower assembly, much like the one in Lippe. It would have been obvious to one having ordinary skill in the art at the time of invention to include the soap dish and shelf combination of Campe into the corner assembly of Lippe in order to make the shower assembly more aesthetically pleasing.

Regarding claim 7, it is well-known in the art that bathtubs and shower wall panels are made from a thermoplastic material for easy cleaning and durability.

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Regarding claims 9-11 and 13-14, the method of forming the invention would be obvious given the structure described above of Lippe in view of Campe.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lippe (US 6698037) in view of Campe (US 5070549) as applied to claims 2 and 9 above and in further view of Salach (US 5671489). It is described above what is disclosed by Lippe in view of Campe; however regarding claims 6 and 12 the references do not disclose a handrail connected to the wall panels. Salach illustrates in Figure 1 and discloses in column 3, lines 61-62 a handrail mounted to two wall sections. It would have been obvious to one having ordinary skill in the art at the time of invention to have included the handrail of Salach to the wall panel structure of Lippe in view of Campe in order to provide better stability for people in the shower.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. WENDELL whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot/
Supervisory Patent Examiner, Art
Unit 3635

/M. R. W./
Examiner, Art Unit 3635
June 10, 2008